

From: Sean Cameron [REDACTED]
Subject: Wisconsin deck -- review for Tim meeting on 6/20
Received(Date): Fri, 16 Jun 2023 16:09:43 -0700
Cc: Matt Fischer [REDACTED], Robert Kondrk [REDACTED], Alex Roman [REDACTED],
 [REDACTED], Jeff Robbin [REDACTED], Carson Oliver [REDACTED],
 Kunal Vij [REDACTED], Monika Gromek [REDACTED], [REDACTED],
 Nate Barton [REDACTED], Tanya Washburn [REDACTED],
 [REDACTED], Ann Thai [REDACTED], Eric Gray [REDACTED],
 [REDACTED], Kyle Andeer [REDACTED], Heather Grenier [REDACTED],
 [REDACTED], Ling Yang Lew [REDACTED], Jen Brown [REDACTED],
 [REDACTED], Cynthia Richman [REDACTED],
 [REDACTED], Mark Perry [REDACTED]
To: Philip Schiller [REDACTED], "Greg (Joz) Joswiak" [REDACTED]
 [REDACTED], Craig Federighi [REDACTED], Eddy Cue [REDACTED],
 [REDACTED], Kate Adams [REDACTED]
Attachment: 2023.06.16 CLEAN - Wisconsin - Team Commission - Privileged & Co
Date: Fri, 16 Jun 2023 16:09:43 -0700

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 Prepared at the Request of External Counsel

Phil, Joz, Craig, Eddy, Kate,

As discussed in our prior meeting, there are multiple Epic injunction compliance options under consideration. The cross-functional team needs directional guidance early next week in order to comply with the July 5th deadline. We have a 30-minute review with Tim on Tuesday at 1pm to discuss a no commission option and several proposals for a commission option. The objective of the meeting is to get a decision on whether to pursue a commission so the team can do the necessary work to go live in two weeks' time.

The attached deck has complete details on design, financial modeling, and risk/benefit analysis for the commission and no commission options. We intend to review it with Tim on Tuesday. Please let us know if there is any feedback to the deck or proposed messaging at your earliest convenience so we can incorporate.

Thanks — Sean

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Thanks — Sean

Control Number	APL-EG_11573163
Group Identifier	APL-EG_11573161
P/C	
FamilyStatus	
AllCustodians	Oliver, Carson
Email From	
Email To	
Email CC	
Email BCC	
DateSent	
TimeSent	
DateLastModified	
TimeLastModified	
DateCreated	
Email Subject	
Title	
Filename	2023.06.16 CLEAN - Wisconsin - Team Commission - Privileged & Confidential.key
Application	
Confidentiality_Rcvd	HighlyConfidential
Production Vol.	APL-EG_111



Epic Injunction Implementation Proposal

June 2023

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U.S. District Court - NDCAL
4:20-cv-05640-YGR-TSH
Epic Games, Inc. v Apple Inc.
Ex. No. **CX-0223**
Date Entered _____
By _____

Epic injunction compliance

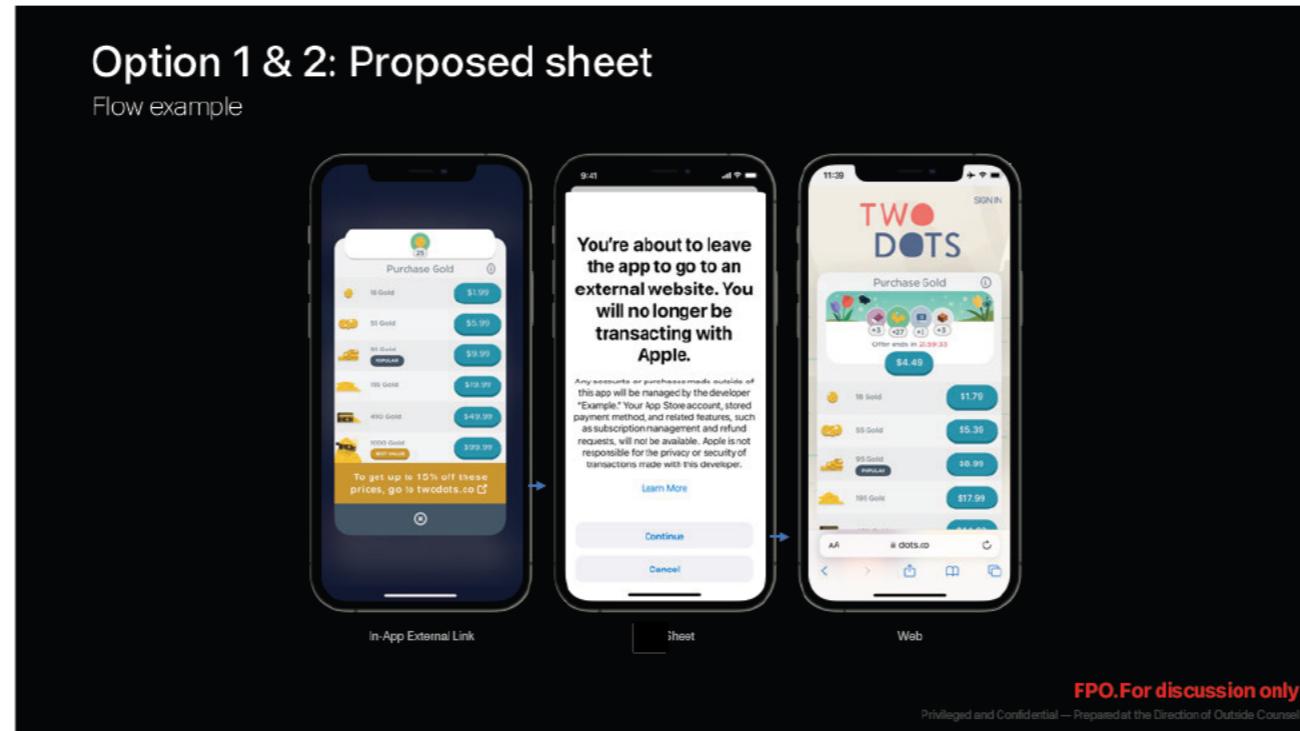
1. Apple Inc. and its officers, agents, servants, employees, and any person in active concert or participation with them ("Apple"), are hereby permanently restrained and enjoined from prohibiting developers from (i) including in their apps and their metadata buttons, external links, or other calls to action that direct customers to purchasing mechanisms, in addition to In-App Purchasing and (ii) communicating with customers through points of contact obtained voluntarily from customers through account registration within the app.
2. Any party may seek modification of this Order, at any time, by written motion and for good cause based on changed circumstances or otherwise.
3. The Court will retain jurisdiction over the enforcement and amendment of the injunction. If any part of this Order is violated by any party named herein or any other person, plaintiff may, by motion with notice to the attorneys for defendant, apply for sanctions or other relief that may be appropriate.
4. This injunction will take effect in ninety (90) days.

Current minimum deadline: **July 5th**

For discussion only

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Compliance options		
	Option 1: No Fee	Option 2: Fee
Different Approach	Fee	None
	Style	Plain link or button
Same Approach	Placement	Once per page; Not on same page as Apple IAP buy flow
	Language	Specific pricing; Template only
Discouragement		May not discourage or mimic IAP
For discussion only		
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Option 1 & 2: Language

Only these templates can be used; price/percentage and URL are variables

- ✓ **Special Offer Template** For special offers go to www.hulu.com/welcome
- ✓ **Lowest Price Template** Lowest price offered on www.hulu.com/welcome
- ✓ **% Off Template** To get 50% off, go to www.hulu.com/welcome
- ✓ **Specific Price** Buy for \$4.99 at www.hulu.com/welcome

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Option 1: No fee

Fee	None
Style	Plain link or button
Placement	Once per page; Not on same page as Apple IAP buy flow
Language	Specific pricing; Template only
Discouragement	May not discourage or mimic IAP

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Option 1: Link or button style

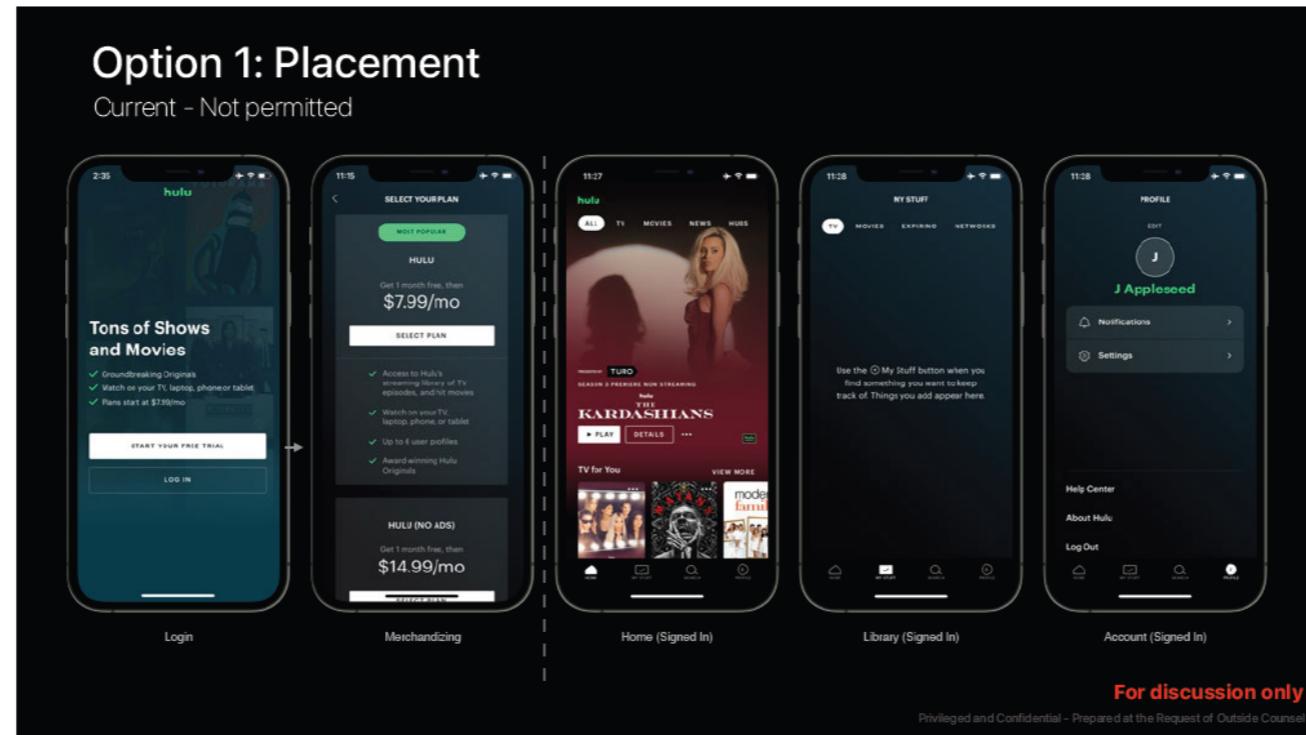
Plain link or button

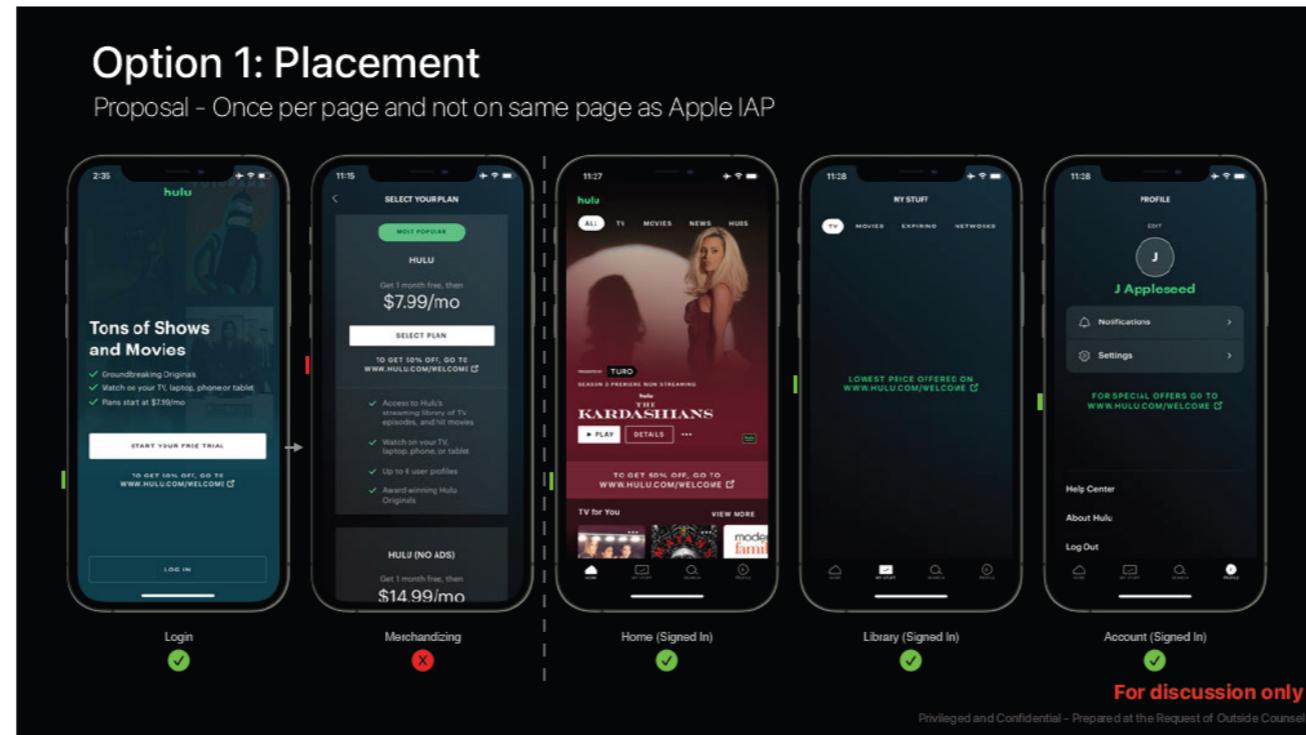
TO GET 50% OFF, GO TO
WWW.HULU.COM/WELCOME ↗

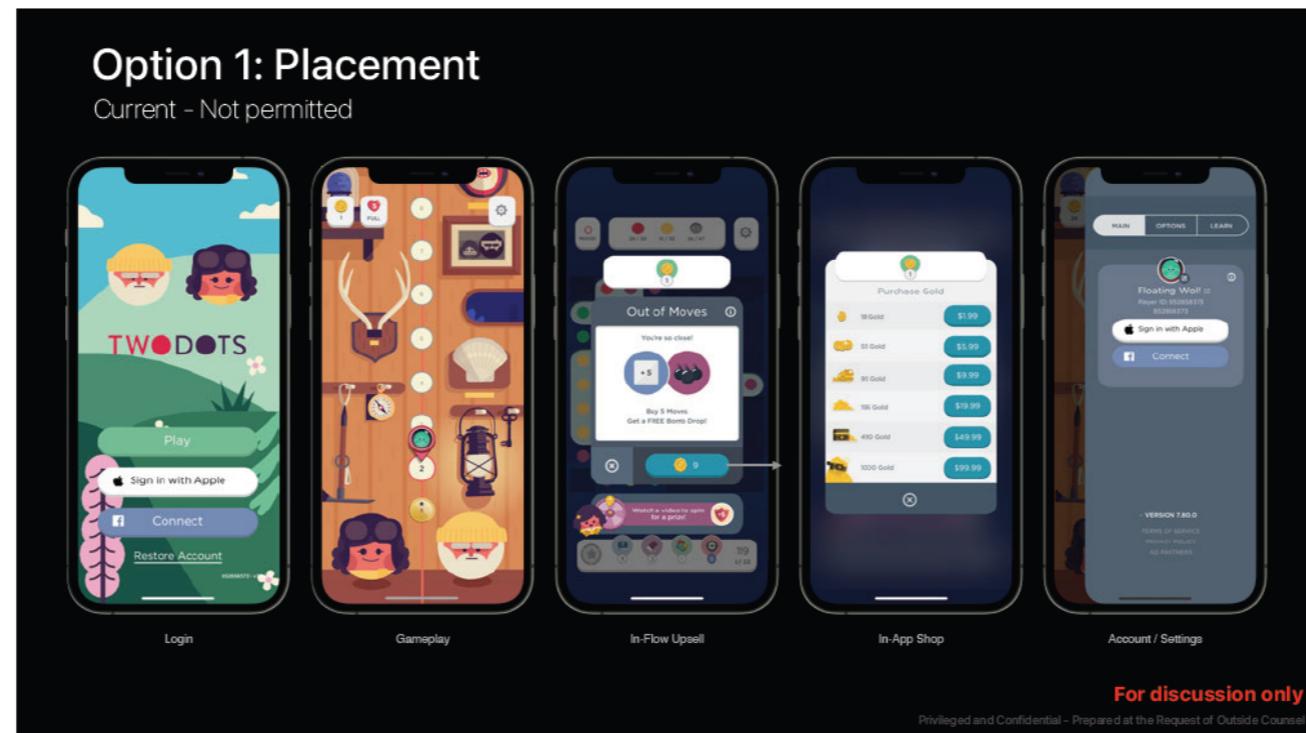
Lowest price offered on
www.twodots.co/save ↗

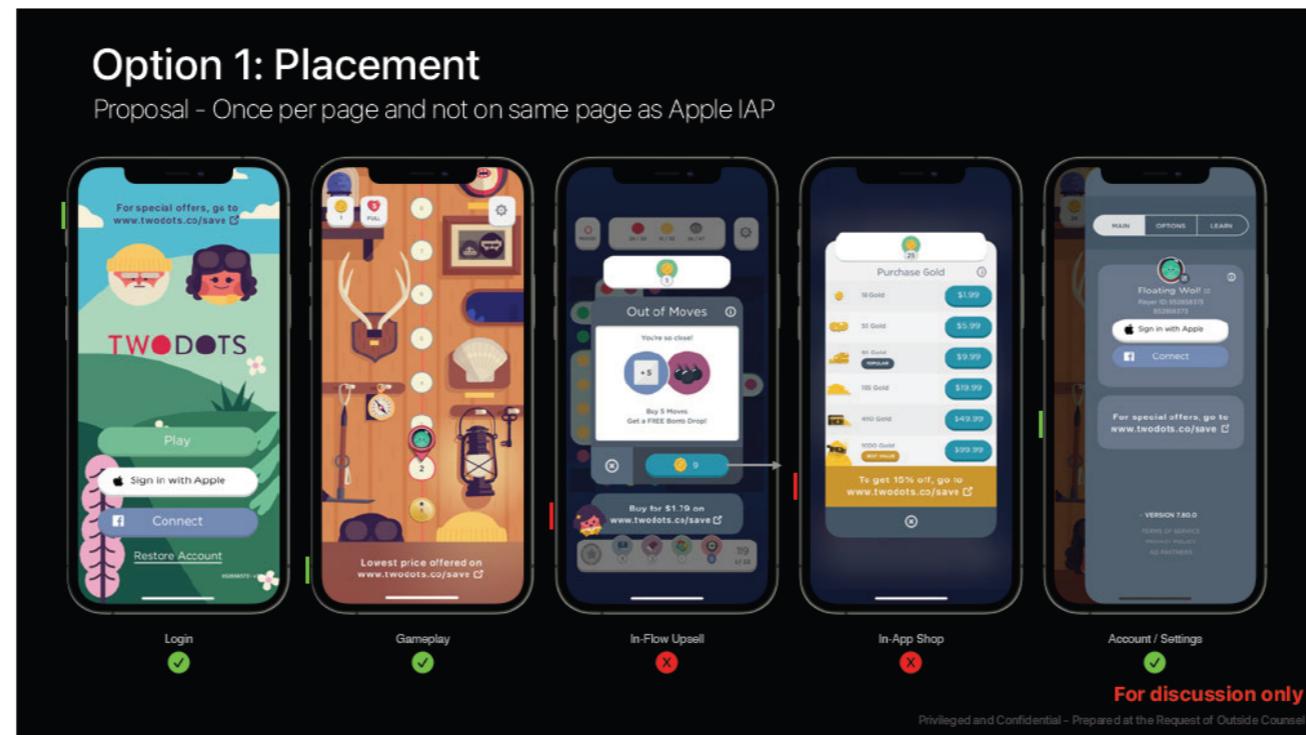
For discussion only

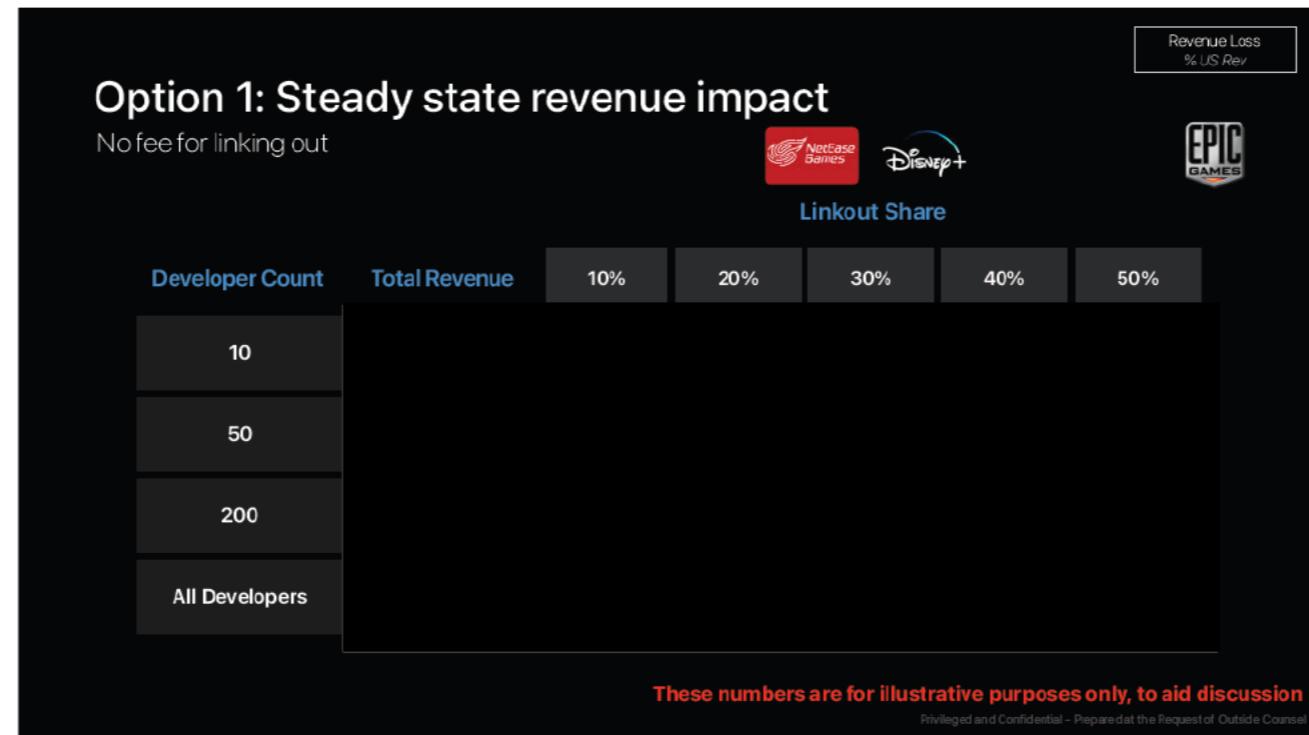
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Option 1: Considerations

No fee for linking out

Benefits

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- Avoids new challenge on applying commission to web sales
- Avoids challenges of collecting commission on web sales
- Maintains integrity of in-app purchase option

Risks

- Meaningful financial risk due to new in-app channel for developers without commission
- Increases volume and complexity of enforcement by App Review
- Diverges from alt payments approach to date; could spread to other markets

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Option 2: Fee

Fee	Commission or flat fee
Style	Developer-styled link or button
Placement	Once per page
Language	Specific pricing; Template only
Discouragement	May not discourage or mimic IAP

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Option 2: Link or Button Style

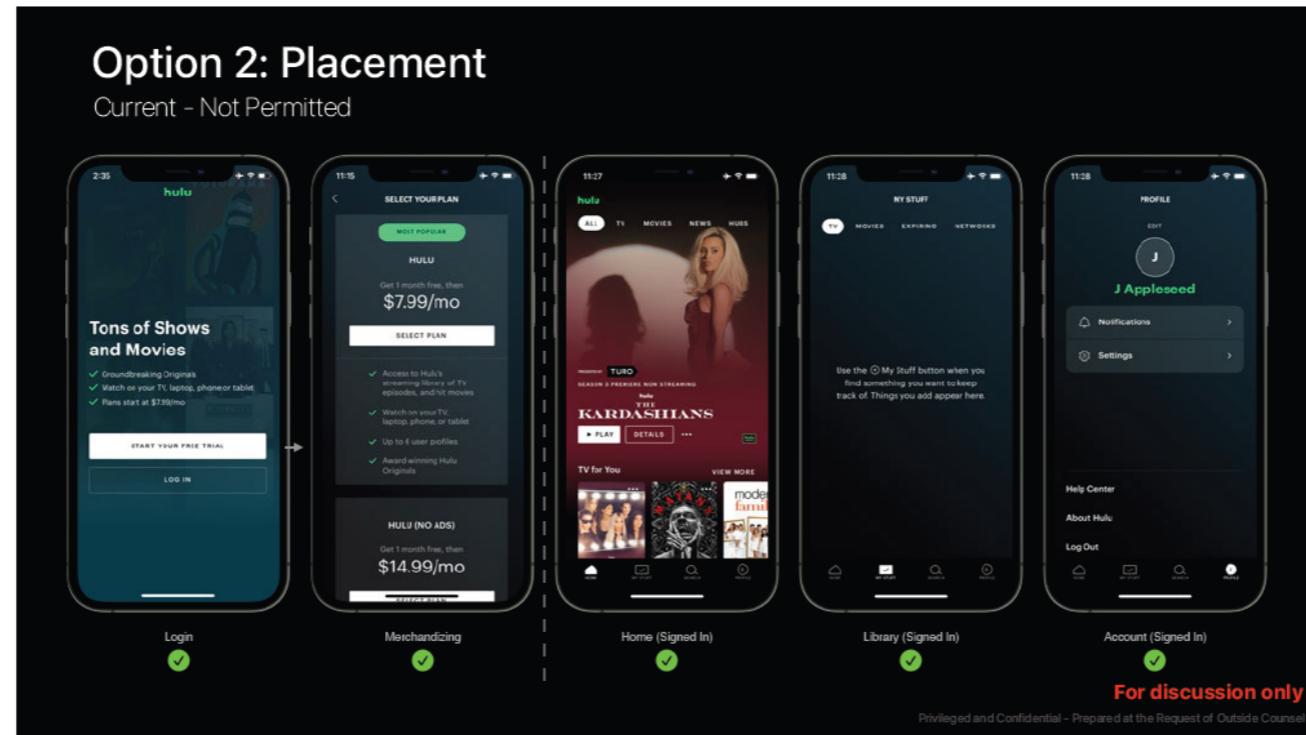
Developer Styled Link or Button

TO GET 50% OFF, GO TO
WWW.HULU.COM/WELCOME

Lowest price offered on
www.twodots.co/save

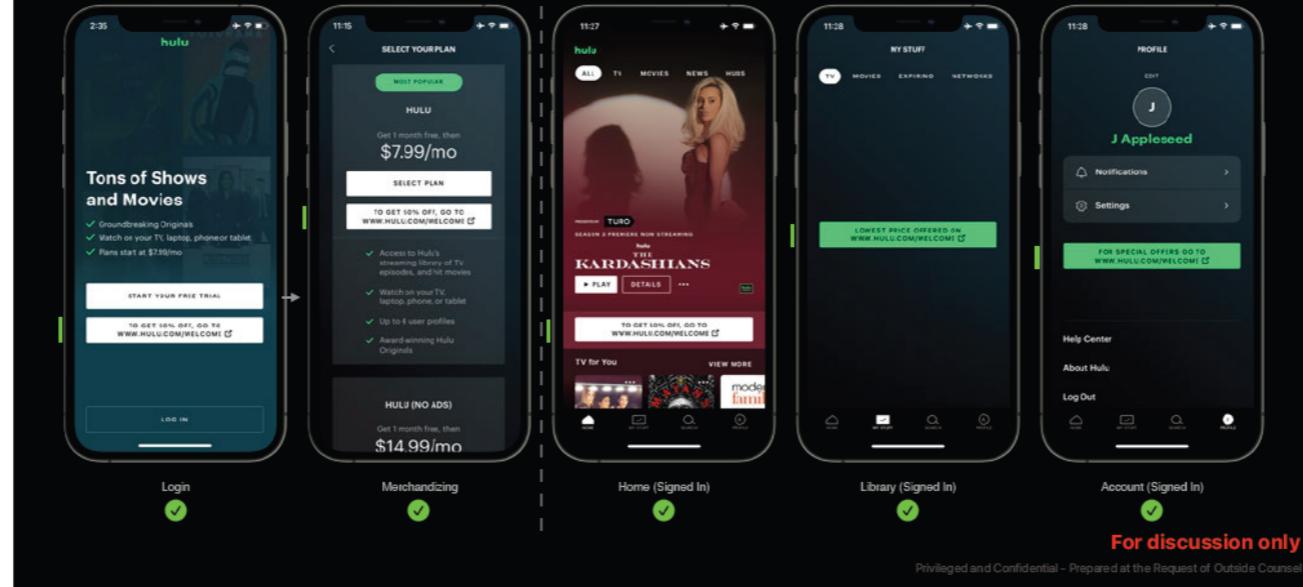
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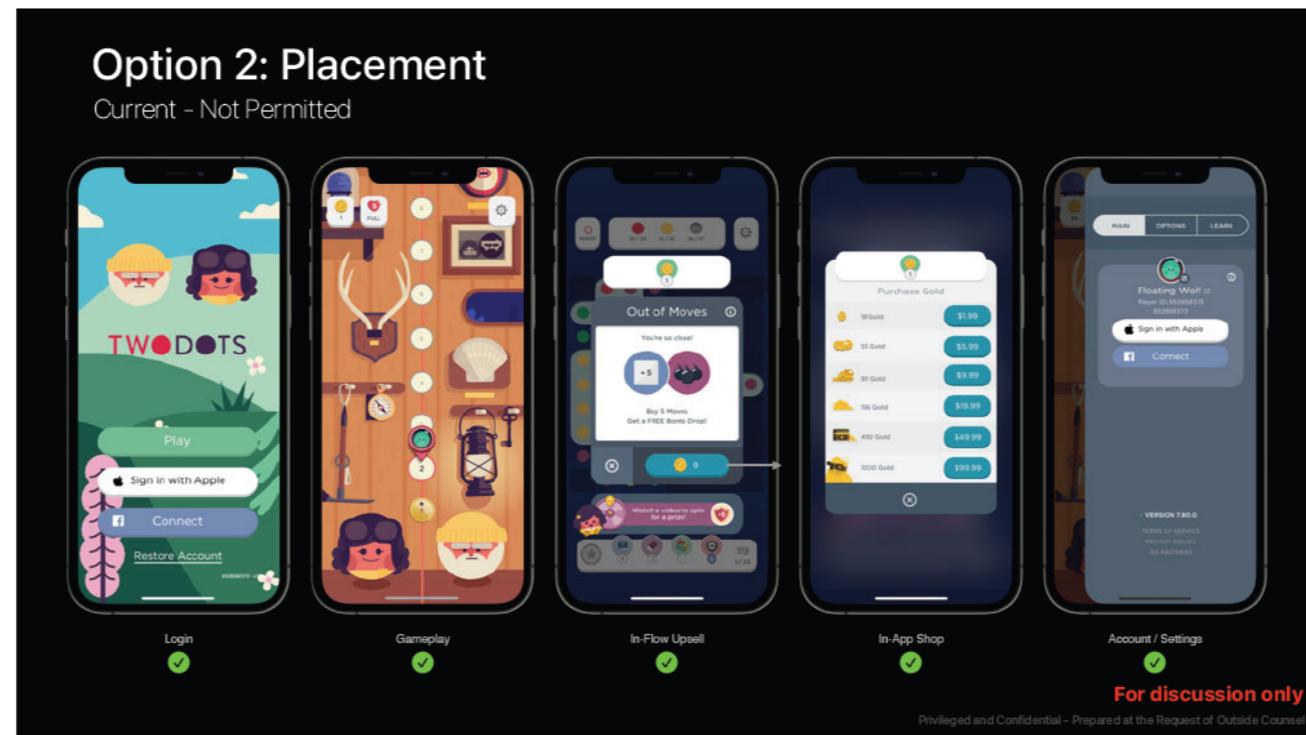
Option 2: Placement

Proposal - Once per page with developer-styled link or button



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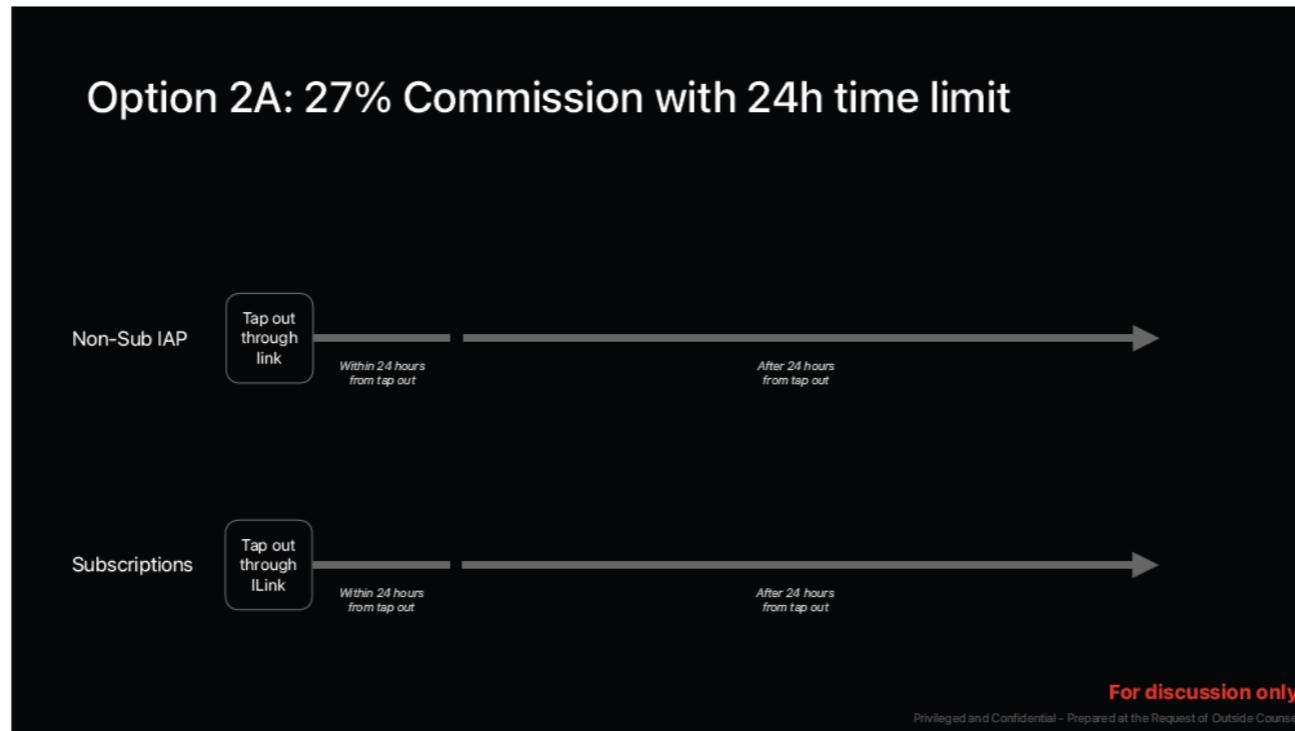


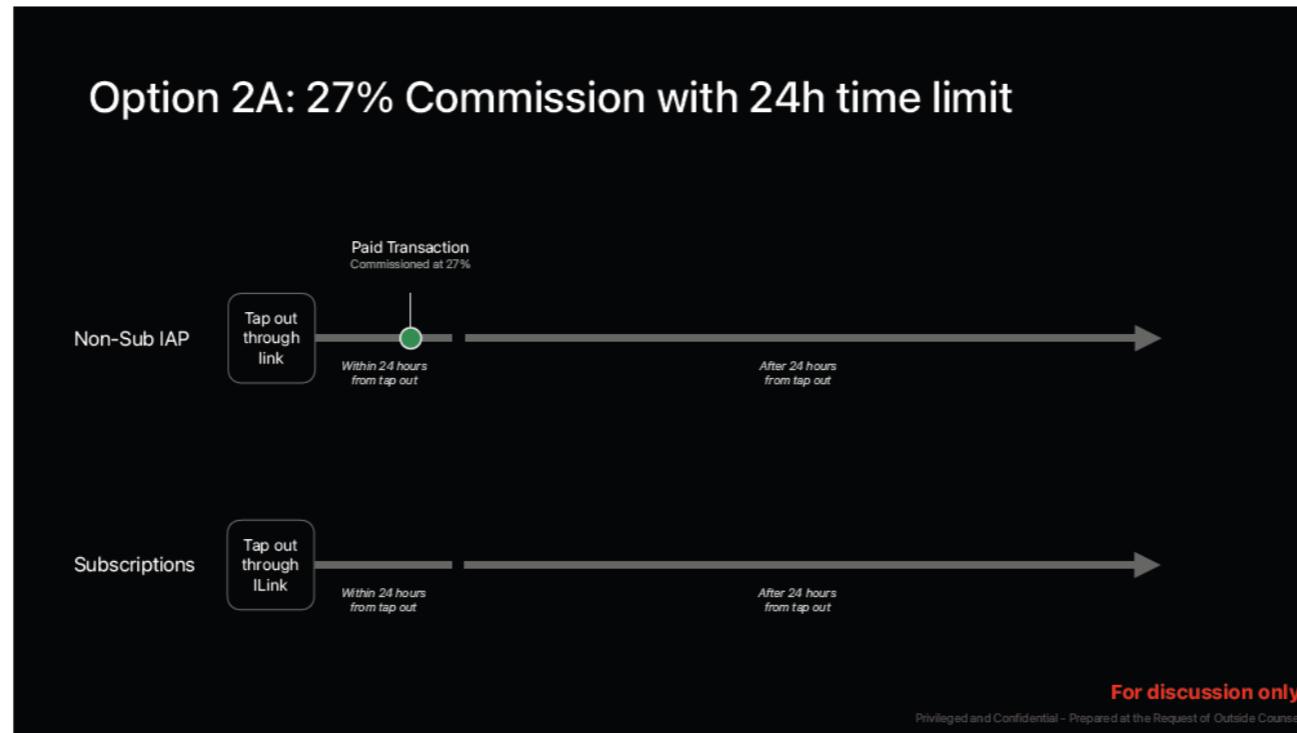
Fee Options

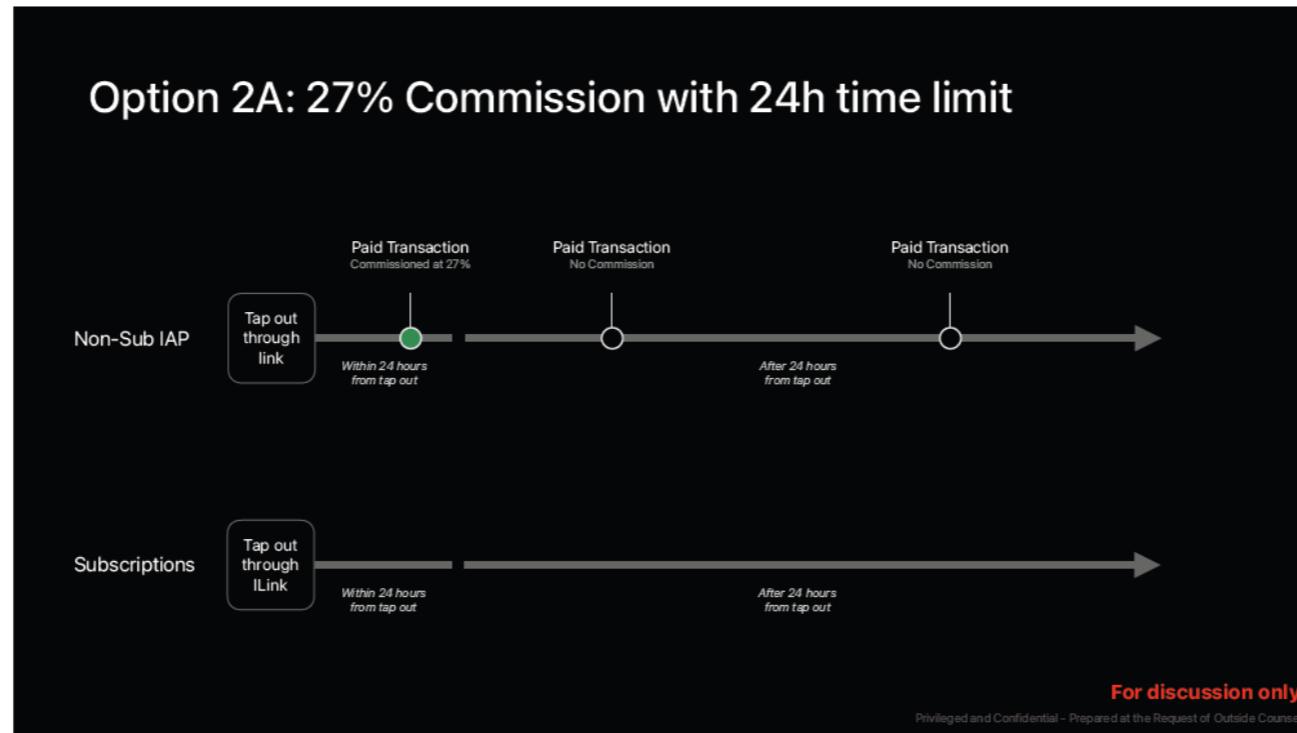
- A. 27% Commission with a 24-Hour Time Limit
- B. Flat Fee per link out
- C. 20% Commission for First Year

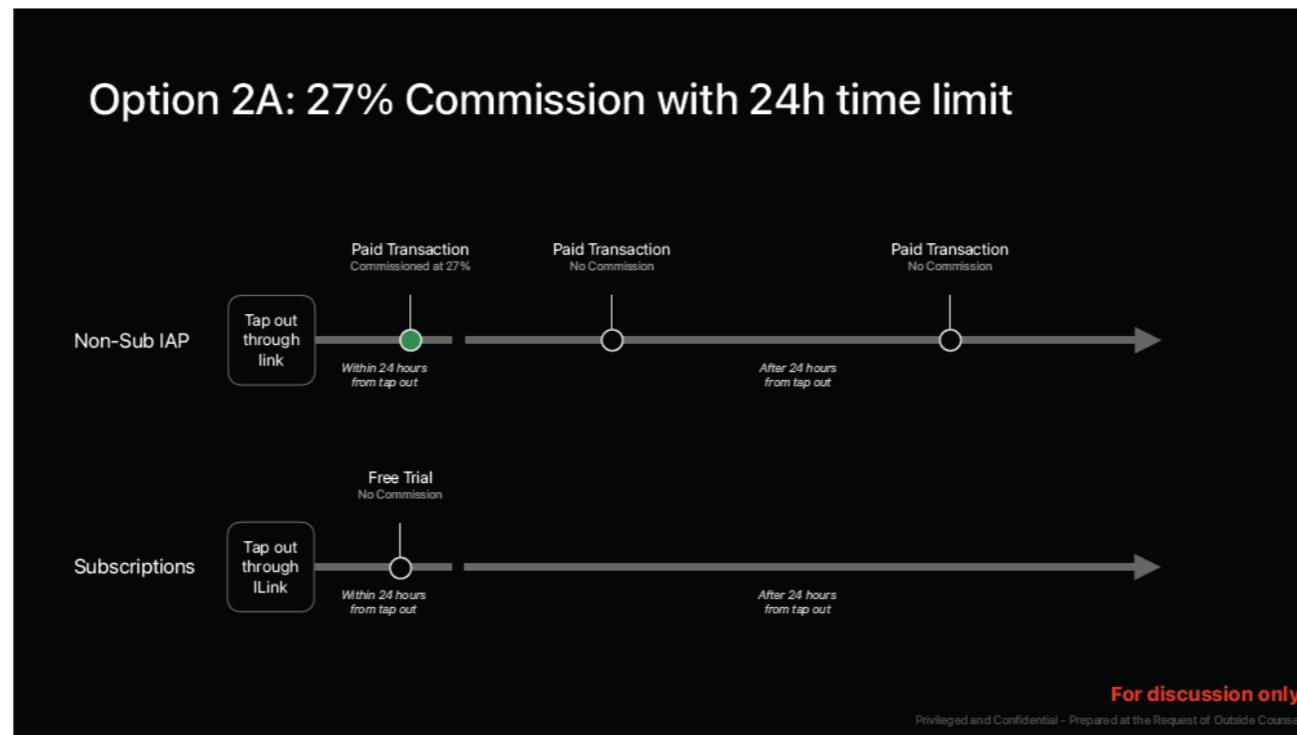
For discussion only

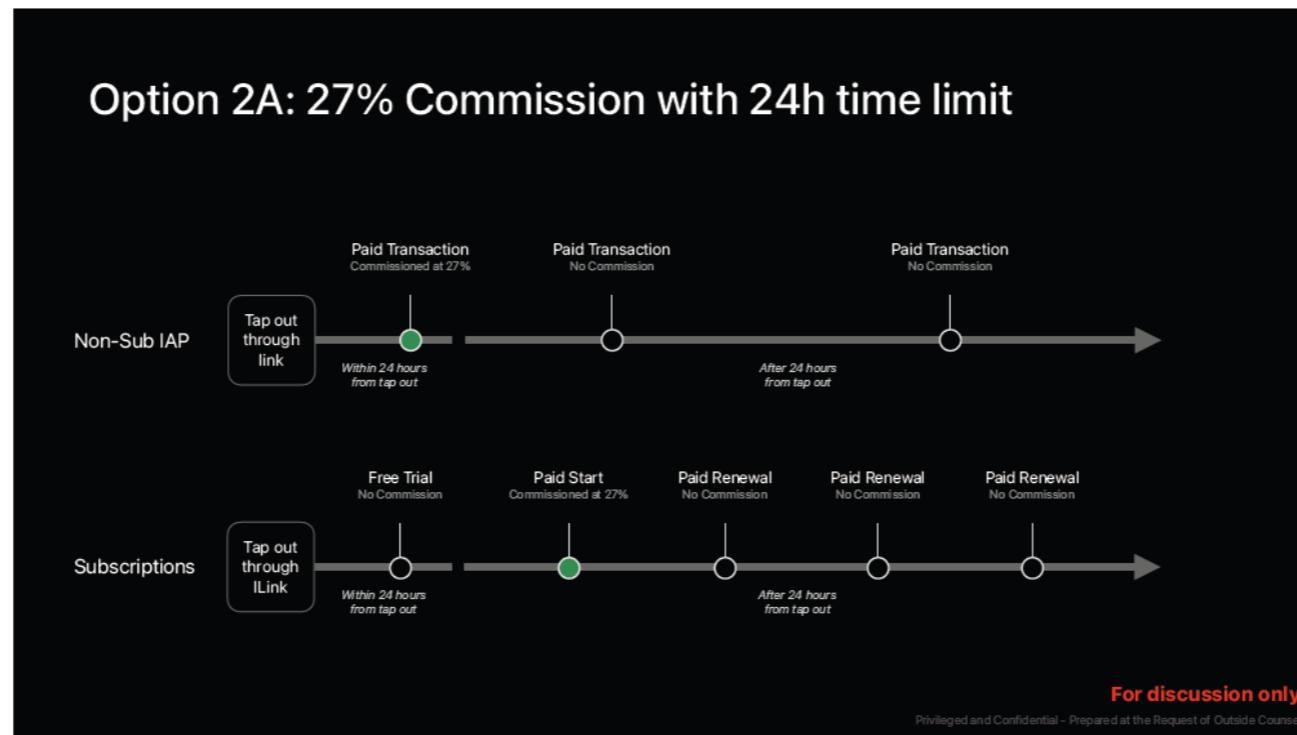
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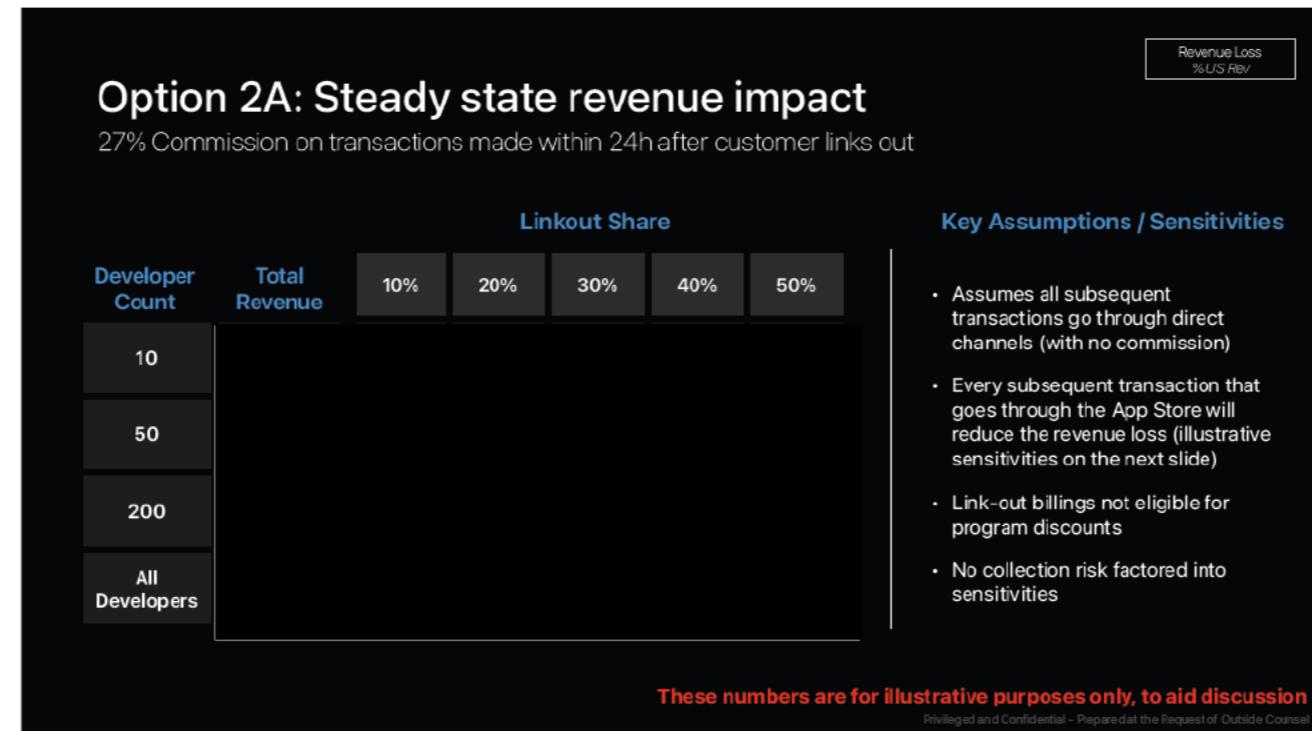


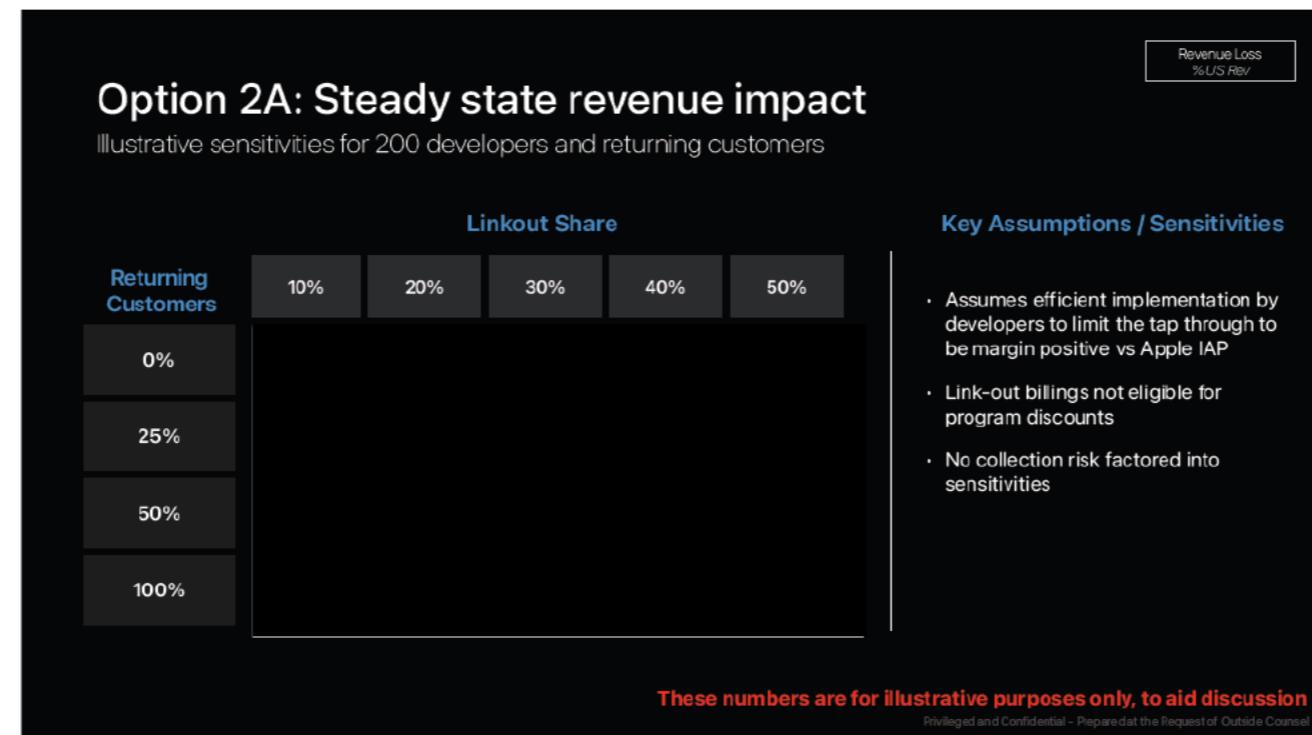












Option 2A: Proposed justification for commission

27% Commission on transactions made within 24h after customer links out

- Developers who retain customers through direct channels after linking out will keep 100% of customer billings after the initial transaction. We estimate the average effective rate over the first year for a customer who links out to be 5% in this model.
- Applying our standard commission for the initial transaction is fair and defensible. Developers are still benefitting from the vast majority of Apple's tools, technologies, and services, minus cost of payments.
- Structure also aligns with affiliate programs in the market

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Option 2A: Considerations

27% Commission on transactions made within 24h after customer links out

Benefits

- Reduces financial risk versus no-fee option
- Provides more margin opportunity for developers compared to standard IAP commission, ATTORNEY-CLIENT PRIVILEGE

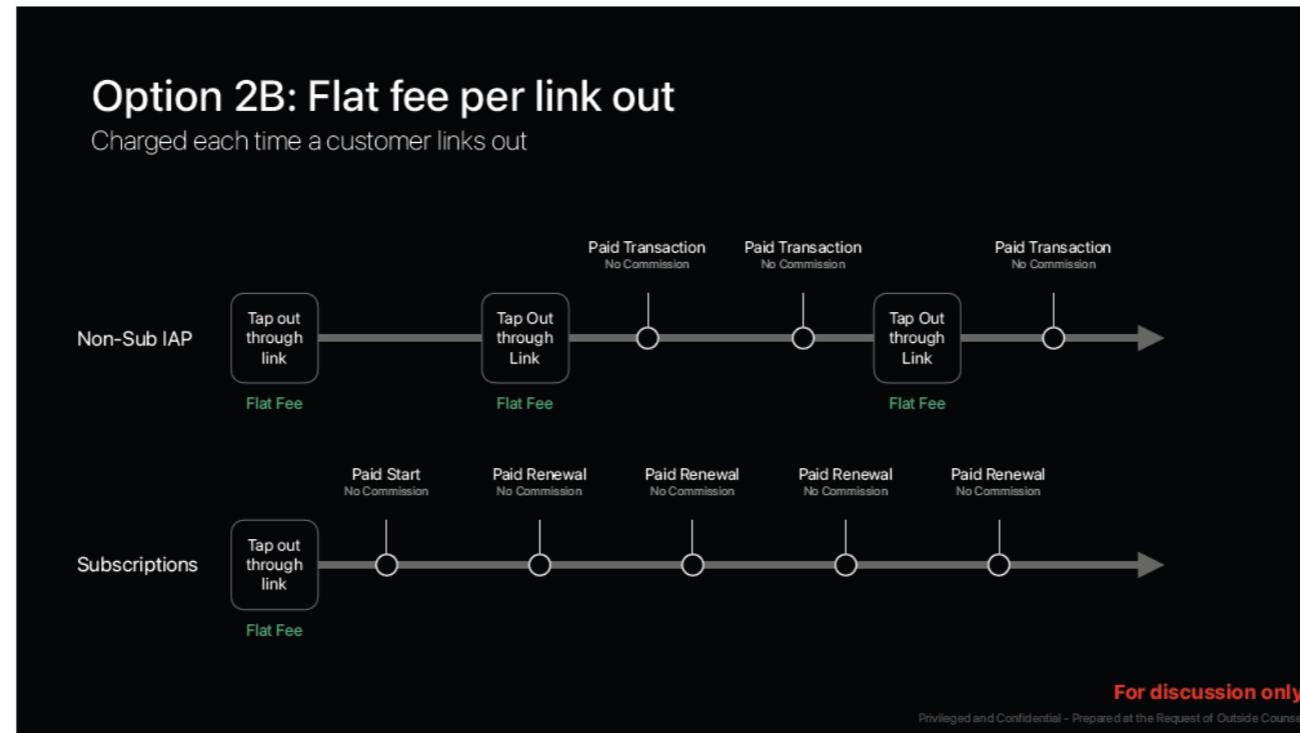
Risks

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- Developers may claim that a small discount on initial transaction does not allow for price competition
- Diverges from planned alt payments approach due to time duration
- Significant collection risk if linking out adoption scales

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Option 2B: Flat fee per link out

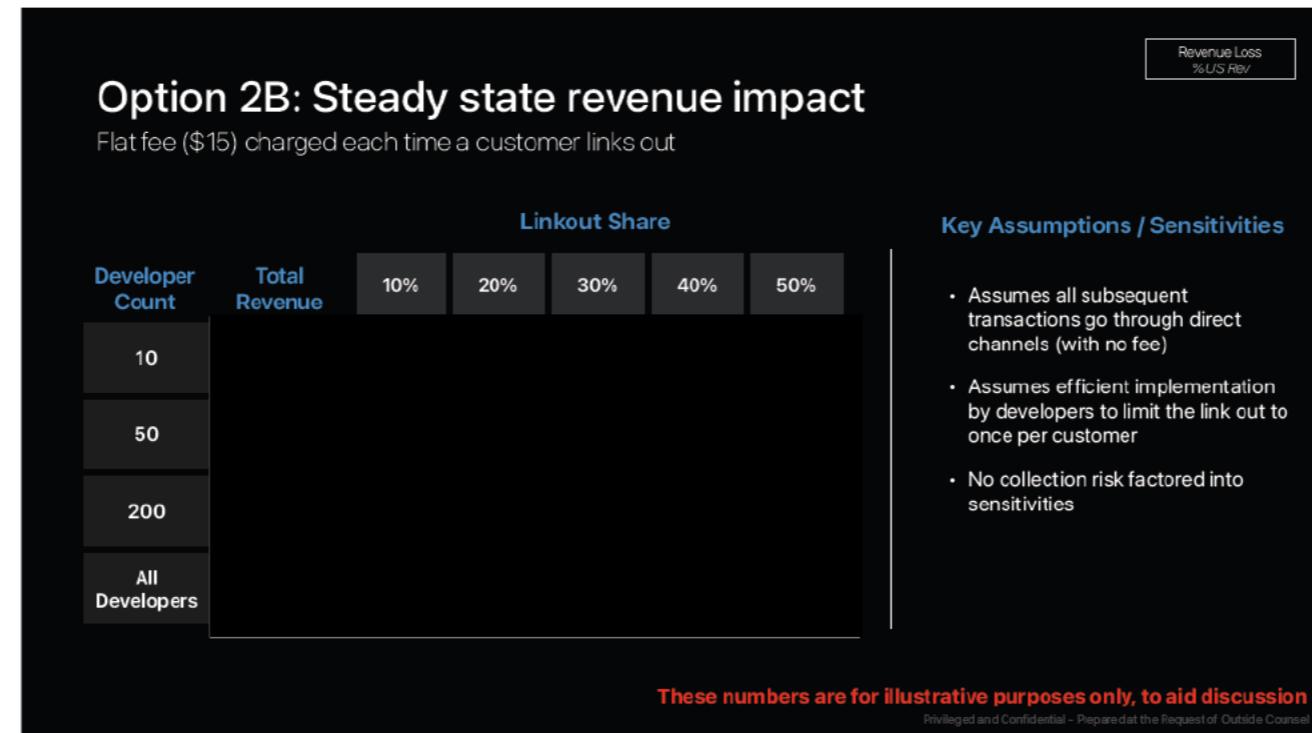
Based on average month 1 customer spend (LTV)

Proposed Fee Calculation

These numbers are for illustrative purposes only, to aid discussion

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*Note: Est. Purchase Completion Rate based on Apple's IAP purchase flow



Option 2B: Proposed justification for commission

Flat fee charged each time a customer links out

- By allowing linking out, the App Store is functioning as an affiliate channel that facilitates customer app discovery and demand capture while resolving to out of app direct payment options
- Our flat fee per tap through is fair and defensible:
 - This structure aligns with affiliate pricing structures in the market
 - Flat fee is based on average in app customer spend, and discounted based on estimated likelihood of converting to a paid transaction
 - While flat fee may appear high, the effective rate drops quickly for developers who are able to retain customers on non Apple channels. We estimate the average effective rate over the first year for a customer who links out to be 16% in this model.

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Option 2B: Considerations

Flat fee charged each time a customer links out

Benefits

- Reduces financial risk versus no-fee option
- No calculation risk as Apple has full visibility into link out data
- No need for data sharing or audit rights between developers and Apple
- Sidesteps direct comparisons with commission rates

Risks

- Optics risk as the flat fee may exceed single transaction ASP for many apps

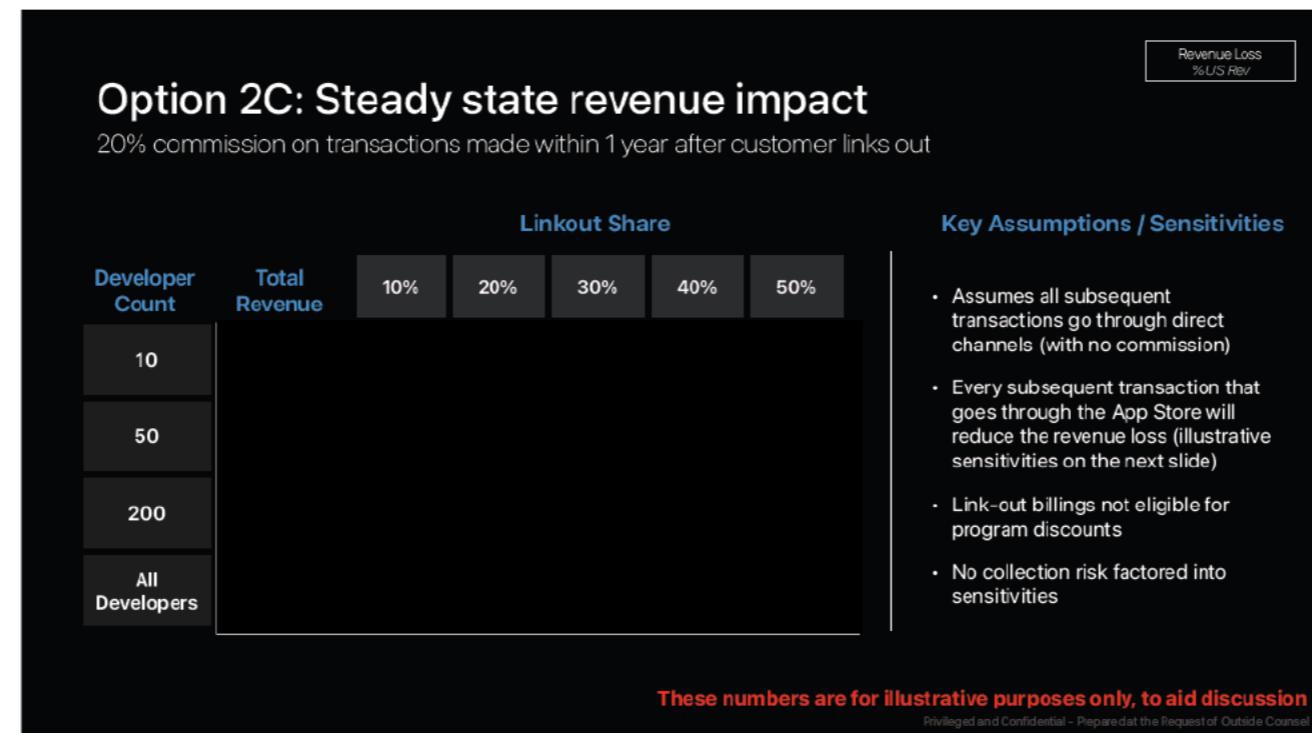
ATTORNEY-CLIENT PRIVILEGE

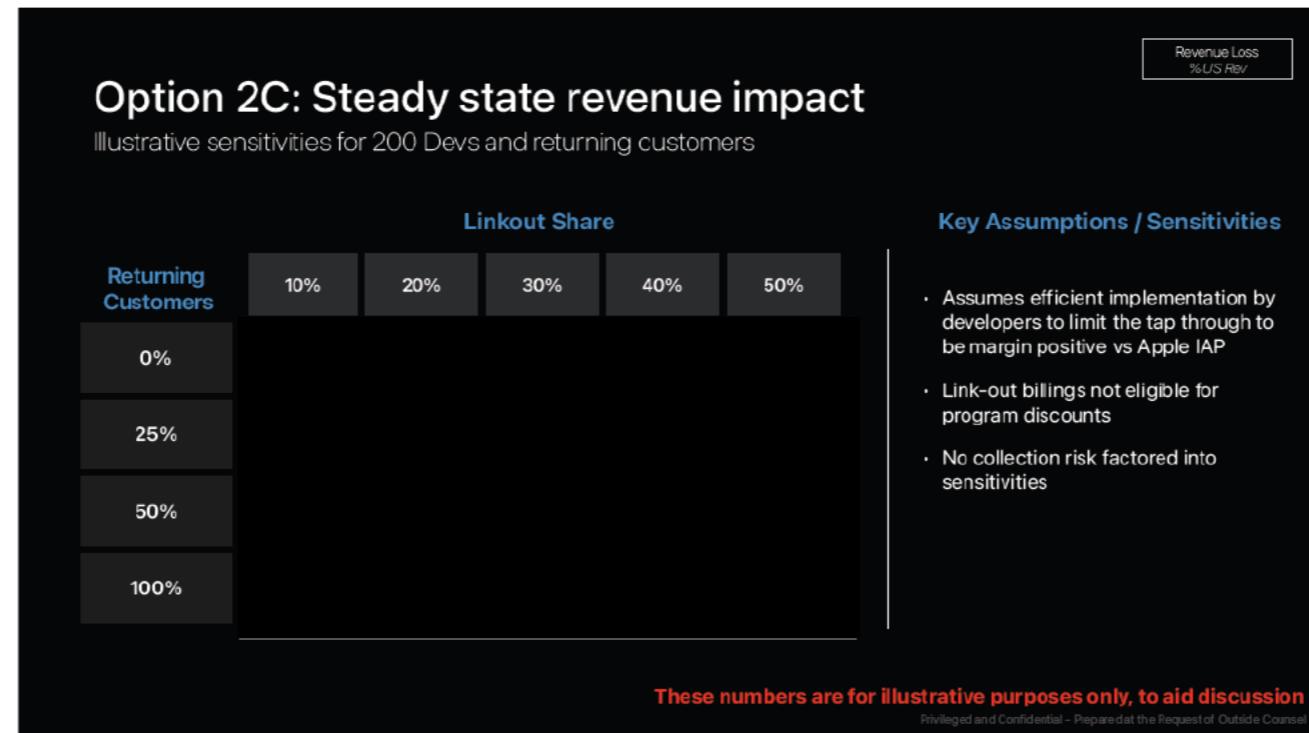
- Pricing risk as this option will be very attractive to high-LTV apps and games
- If adopted in EU, may be seen as non-compliant with DMA mandate to allow devs to promote offers free of charge

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Option 2C: Proposed justification for commission

20% commission on transactions made within 1 year after customer links out

- We are reducing our standard commission by 1/3 for transactions initiated out of the app, which is fair and defensible. Developers are still benefitting from the vast majority of Apple's tools, technologies, and services, minus cost of payments.
- Developers who retain customers through direct channels after linking out will keep 100% of customer billings after the first year. We estimate the average effective rate over the first 2 years for a customer who link outs to be 10% in this model.

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Option 2C: Considerations

20% commission on transactions made within 1 year after customer links out

Benefits

- Reduces financial risk versus no-fee option
- Provides more long-term margin opportunity for developers compared to standard IAP commission, ATTORNEY-CLIENT PRIVILEGE

ATTORNEY-CLIENT PRIVILEGE

Risks

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- Developers may claim that a longer duration of the on initial transaction does not allow for price competition
- Diverges from planned alt payments approach due to discount
- Significant collection risk if linking out adoption scales

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